

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL A. JONES,

Plaintiff,

Case Number: 04-73720

v.

HONORABLE AVERN COHN

JOHN RUBITSCHUN,

Defendants.

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ORDER ADOPTING REPORT AND RECOMMENDATION AND
AMENDED REPORT AND RECOMMENDATION
AND
GRANTING DEFENDANTS' MOTION TO DISMISS
AND
DISMISSING CASE

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff Michael A. Jones, proceeding pro se, filed a complaint against defendant John Rubitschun, claiming violations of the Fourteenth and First Amendments arising out of his denial of parole. The matter was referred to a magistrate judge for all pre-trial proceedings. Defendants filed a motion to dismiss. On September 7, 2005, the magistrate judge issued a report and recommendation (MJRR) recommending that the motion be granted and the complaint be dismissed. Plaintiff objected to the MJRR. Because plaintiff's objections raised issues not raised defendants' motion nor considered by the magistrate judge, specifically, the application of the United States Supreme Court's decision in Wilkinson v. Dotson, 125 S. Ct. 1242 (2005), the Court referred the matter back to the magistrate judge for consideration of plaintiff's objections and preparation of a supplemental report and recommendation following a response by defendants. On November 2, 2005, the magistrate judge issued an Amended MJRR discussing Wilkinson and again recommending that plaintiff's complaint be dismissed.

Before the Court are plaintiff's objections to the Amended MJRR. Plaintiff takes

issue with the magistrate judge's analysis and application of Wilkinson to his claim. The Court has carefully reviewed the Amended MJRR and plaintiff's objections and agrees with the magistrate judge. That is, plaintiff has failed to state a claim under § 1983 based on the denial of parole; the decision in Wilkinson does not alter this conclusion. Accordingly, the MJRR of September 7, 2005 and the Amended MJRR of November 2, 2005, are ADOPTED as the findings and conclusions of the Court. Accordingly, defendants' motion to dismiss is GRANTED. Plaintiff's complaint is DISMISSED.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: November 17, 2005